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# Swinomish Indian Tribal Community

A Federally Recognized Indian Tribe Organized Pursuant to 25 U.S.C. § 476

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Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, D.C. 20554

Re: WT Docket No. 17-79  
FCC 17-38  
Accelerating Wireless Broadband  
Deployment by Removing Barriers to  
Infrastructure Investment

Dear Ms. Dortch:

I am writing on behalf of the Swinomish Indian Tribal Community ("Swinomish") to comment on the Draft Notice of Proposed Rulemaking ("DNPRM") and Notice of Inquiry in the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment (WT 17-79) and Revising the Historic Preservation Review Process for Wireless Facility Deployments (WT 15-180).

## **Revising the Historic Preservation Review Process**

Swinomish is concerned by the proposed policy changes contained in the DNPRM, which have the potential to harm an existing functional and efficient tribal review process. As the old saying goes, "if it ain't broke, don't fix it." Swinomish urges the Commission, as its trustee, to not try to "fix" the existing functioning process.

Specifically, the Commission seeks comment on whether the review process can be revised to permit applicants to self-certify their compliance with Section 106. Swinomish opposes revisions that would allow applicants to self-certify Section 106 compliance.

The Commission also asks for comment on whether tribal participation should continue to be required if an exclusion is adopted for facilities constructed in utility or communications Rights of Way on historic properties. Tribal review of applications in Rights of Way continues to be important because Rights of Way have the potential to hold concentrations of cultural and historic properties protected by the National Historic Preservation Act. The Commission should consider this high

concentration of historic and cultural properties when considering exclusions for Rights of Way. Further, many Rights of Way predate the National Historic Preservation Act, and many Rights of Way were established without appropriate Tribal consultation. Therefore, existing Rights of Way should not be excluded from review under Section 106.

### **Accelerating Wireless Broadband Deployment**

Advanced telecommunications infrastructure has not been made fully available in Indian Country, as acknowledged in the 2016 Broadband Progress Report, which reported that 41% of all tribal lands and 68% of rural tribal lands lack access to Broadband. More than an estimated one million people on tribal lands lack access to the internet economy, online education, telehealth services and online medical care, and lack proper public safety telecommunications infrastructure.

Here on the Swinomish Indian Reservation, the west shore of the Reservation lacks any basic cell phone service at all. As a result, residents are dependent upon expensive phone or cable lines. Even more importantly, our Swinomish Tribal Police are unable to use cell phones when deployed to the west side of the Reservation, depriving our Police of an important tool in carrying out the Swinomish Tribe's essential law enforcement function.

The Commission should, therefore, prioritize connecting Indian Country when considering 5G deployment. Small cells have the potential to increase slow wireless speeds on reservations to broadband level, allowing for greater broadband deployment on tribal lands. Incentivizing deployment of small cells in Indian Country is in line with the authorizing mission of the Commission.

At the same time, as discussed above, Swinomish is concerned that deployment of telecommunications infrastructure not impact preservation of historic properties and sacred sites. Communications infrastructure development must not be undertaken at the expense of tribal sovereignty, consultation, sacred sites, or cultural resources. As you know, the Commission has a trust obligation to consult with tribal nations and to protect the historic properties designated under the National Historic Preservation Act. These trust and statutory obligations are governing principles as the FCC seeks expanded wireless deployment.

In conclusion, Swinomish strongly urges the Federal Communications Commission not to proceed with this draft Notice of Proposed Rulemaking. Should the Commission determine to move forward with this draft Notice of Proposed Rulemaking, the Commission must conduct government-to-government consultation with tribal nations across the country, including Swinomish. Therefore, should the Commission decide to proceed, the Swinomish Indian Tribal Community looks forward to government-to-government consultation with the Commission on these important topics.

Sincerely,



M. Brian Cladoosby  
Chairman, Swinomish Indian Senate